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Paper No. 17

In re Application of
Bernd Schulze
Application No. 09/507,453
Filed: February 22, 2000
Attorney Docket No. RUM213R1

: DECISION ON PETITION

:

This is a decision on the renewed petition filed on November 17, 2003 by which petitioner requests withdrawal of the holding that this application stands abandoned for failure to timely file the issue fee. The petition is being treated pursuant to 37 CFR 1.181, and no fee is required.

The renewed petition is granted.

In the original petition, petitioner alleged that the issue fee was in fact timely paid. Petitioner supported this allegation by furnishing a copy of a transmittal letter for a supplemental declaration and the authorization of payment of the issue fee. The fee authorization has affixed thereto a 37 CFR 1.8(a) certificate of mailing dated April 30, 2003. Petitioner has also furnished a copy of a post card receipt for the transmittal letter which shows that it was received in the Office on April 30, 2003.

It was originally held that petitioner's fee authorization was without effect because the fee authorization authorized the Office to charge Deposit Account No. 11-0224 "any fees under 35 U.S.C. 1.16, and 1.17, after a mailing of a Notice of Allowance under 35 USC 1.18, or any additional fees which may be required during the entire pendency of this application ..." and there are no fees that are due under any of 35 U.S.C. § 1.16, 35 U.S.C. § 1.17 or 35 U.S.C. § 1.18. The issue fee is authorized by 35 U.S.C. § 151 and the amount of this fee is in fact set by 37 CFR 1.18. Also, the fee authorization affixed to the transmittal letter did not specifically authorize the Office to charge the issue fee, but instead merely authorized the Office to charge nonexistent fees in accordance with nonexistent Sections of Title 35 of the United States Code.

Upon reconsideration, it is deemed that the Office could have understood the fee authorization to authorize charging the issue fee under 37 CFR 1.18 to Deposit Account No. 11-0224. In view of the evidence showing that receipt of this authorization, it is clear that this application is not abandoned.

Accordingly, the Notice of Abandonment is hereby vacated, the holding of abandonment is withdrawn, and the application is restored to pending status. The application is being forwarded to the Office of Patent Publications with instructions to charge the issue fee to the above listed Deposit Account.

PETITION GRANTED.

E. Rollins-Cross, Director, Patent
Examining Groups 3710 and 3720

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